BILL NO. S-80-12-38

SPECIAL ORDINANCE NO. S-12-81

AN ORDINANCE approving a contract for Sewer Improvement Resolution No. 325-80 between the City of Fort Wayne, Indiana, and Butler & Butler Construction, Inc., Contractor for installation of sanitary sewer.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That a certain contract dated December 16, 1980, between the City of Fort Wayne, Indiana, by and through its Mayor and the Board of Public Works, and Butler & Butler Construction, Inc., Contractor for:

construction of an eight and twelve inch sanitary sewer through Golfview Addition area,

under Board of Public Works Sewer Improvement Resolution No. 325-80, at a total cost of $196,160.00, all as more particularly set forth in said Contract which is on file in the Office of the Board of Public Works and is by reference incorporated herein and made a part hereof, be and the same is in all things hereby ratified, confirmed and approved.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and approval by the Mayor.

COUNCILMAN

APPROVED AS TO FORM AND LEGALITY DECEMBER 18, 1980.

J. E. Hoffman

JOHN E. HOFFMAN, City Attorney

Read the first time in full and on motion by Burns, seconded by Stier, and duly adopted, read the second time by title and referred to the Committee City Utilities (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock ___M.,E.S.T.

DATE: 12-23-80

CHARLES W. WESTERMAN
CITY CLERK

Read the third time in full and on motion by Burns, seconded by GiaQuinta, and duly adopted, placed on its passage. PASSED ~~(LOST)~~ by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	8			1	
BURNS	X				
EISBART	X				
GiaQUINTA	X				
NUCKOLS				X	
SCHMIDT, D.	X				
SCHMIDT, V.	X				
SCHOMBURG	X				
STIER	X				
TALARICO	X				

DATE: 1-13-81

CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as ~~(ZONING MAP)~~ ~~(GENERAL)~~ (ANNEXATION) (SPECIAL) (APPROPRIATION) ORDINANCE (RESOLUTION) No. S-12-81 on the 13th day of January, 19 81

ATTEST: (SEAL)

CHARLES W. WESTERMAN - CITY CLERK

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 14th day of January, 19 81, at the hour of 11:00 o'clock A M.,E.S.T.

CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this 15th day of Jan. 19 81, at the hour of 11 o'clock A M.,E.S.T.

WINFIELD C. MOSES, JR.
MAYOR

BILL NO. S-80-12-38

REPORT OF THE COMMITTEE ON CITY UTILITIES

WE, YOUR COMMITTEE ON City Utilities TO WHOM WAS REFERRED AN ORDINANCE approving a contract for Sewer Improvement Resolution No. 325-80 between the City of Fort Wayne, Indiana, and Butler & Butler Construction, Inc., Contractor for installation of sanitary sewer

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE DO PASS.

PAUL M. BURNS, CHAIRMAN

VIVIAN G. SCHMIDT, VICE CHAIRMAN

BEN A. EISBART

SAMUEL J. TALARICO

ROY J. SCHOMBURG

CONCURRED IN

DATE 1/13/81 CHARLES W. WESTERMAN, CITY CLERK

CONTRACT NO. 325-80

THIS CONTRACT made and entered into in triplicate this 16th day of December, 1980, by and between BUTLER & BUTLER CONSTRUCTION, INC. herein called CONTRACTOR, and the City of Fort Wayne, Indiana, an Indiana Municipal Corporation, acting by and through the Mayor, and the Board of Public Works herein called OWNER,

WITNESSETH that the Contractor and the Owner for the considerations hereinafter named, agrees as follows:

ARTICLE 1. SCOPE OF WORK

Contractor shall furnish all labor, material, equipment, tools, power, transportation, miscellaneous equipment, etc., necessary for the construction of the following:

MAIN #1

Beginning at an existing sanitary sewer manhole located 2120± LF north of and 2030± LF east of the intersection of California Road and Kroemer Road; thence easterly 400± LF to a proposed manhole located 2160± LF north of and 15± LF east of the intersection of California Road and Golfview Drive intersection; thence southerly 2000± LF terminating at a proposed cleanout located 160± LF north and 15± LF east of the intersection of said Golfview Drive and California Road.

LATERAL #1

Beginning at a proposed manhole located 2160± LF north of and 15± LF east of the intersection of Golfview Drive and California Road; thence northerly 280± LF terminating at a proposed manhole located 2440± LF north of and 15± LF east of the intersection of said Golfview Drive and California Road.

LATERAL #2

Beginning at a proposed manhole located 250± LF north of and 25± LF west of the intersection of Golfview Drive and California Road; thence westerly 255± LF terminating at a proposed manhole located 250± LF north of and 240± LF west of the intersection of said Golfview Drive and California Road.

Said sewer shall be 8" and 12" in diameter.

all according to Fort Wayne Pollution Control Engineering Department Drawing No. SY-11050, and do everything required by this contract and the other documents constituting a part hereof.

ARTICLE 2. THE CONTRACT SUM

The Owner shall pay Contractor for the performance of the contract the unit price sum of $196,160.00. In event the amount of work is increased or decreased by Owner, the contract sum shall be increased or decreased according to the unit price schedule set forth in the Contractor's Proposal.

8" Sewer Pipe	Twelve dollars and 50/100	12.50
12" Sewer Pipe	Fourteen dollars and 50/100	14.50
12" Sewer Pipe (RCP Class V)	Sixteen dollars and 50/100	16.50
Std. MH Type I-J	One thousand nine hundred dollars and no/100	1,900.00
STD MH Type VI-J	Two thousand five hundred dollars and no/100	2,500.00
6" "T" or "WYE" Tapping Unit	One hundred dollars and no/100	100.00
6" Building Sewer Pipe	Twenty dollars and no/100	20.00
6" D.I. Class 55 or 6" Sewer Pipe Encased in Class 'A" Bedding	Twenty-five dollars and no/100	25.00
Special Backfill	Eight dollars and no/100	8.00
#53 or #73 Special Backfill	Twelve dollars and no/100	12.00
STD City of Fort Wayne Tap Permit	Fifty dollars and no/100	50.00
12" C.L.D.I.P. Class 55	Twenty-five dollars and no/100	25.00
2'x2'x20' Concrete Pad	One thousand dollars and no/100	1,000.00
45"x73" Cl. A-III Arch Pipe (inclusive of all ditch work and rip rap)	Three hundred dollars and no/100	300.00
12" Encased Boring Complete	Two hundred fifty dollars and no/100	250.00
6" Stone Surface (Driveways)	Five dollars and no/100	5.00
6" Concrete (Driveways)	Eighteen dollars and no/100	18.00
4" Asphalt (Driveways)	Twelve dollars and no/100	12.00
6" Asphalt (Streets - Crossings)	Eighteen dollars and no/100	18.00
Double Chip & Seal	Two dollars and no/100	2.00
Dewatering	Five dollars and no/100	5.00
8"-15" Culvert Pipe (incl. Headwalls)	Twenty dollars and no/100	20.00
8"-12" Field Tile Replacement	Ten dollars and no/100	10.00
Base Stabilization	Ten dollars and no/100	10.00
Seeding and 1" mulch	No dollars and 50/100	0.50

ARTICLE 3. PROGRESS PAYMENTS

Payments are to be made to the Contractor in accordance with and subject to the provisions embodied in the documents made a part of this Contract.

ARTICLE 4. ACCEPTANCE AND FINAL PAYMENT

Final payment shall be due at the time the work is fully completed and accepted and the contract is fully performed.

Upon filing of a Completion Affidavit by the Contractor that the work is ready for final inspection and acceptance, the Board of Public Works will direct the Engineering Department of the Owner to promptly make such inspection. When the Engineering Department finds the work acceptable under the contract, and the contract is fully performed, it shall so inform the Board of Public Works which shall issue a final certificate stating that the work provided for in this Contract has been completed and is accepted thereupon, and the entire balance of the Contract sum shall be due and payable to the Contractor; provided only that Contractor shall first furnish Owner, if requested to do so, satisfactory evidence

that all persons who have supplied labor, material, or equipment for the work have been fully paid.

ARTICLE 5. WORKMEN'S COMPENSATION ACT

The Contractor will furnish immediately a certificate from the Industrial Board of the State of Indiana, that he has complied with the Workmen's Compensation Act in accordance with Section 14 of the Compensation Act (I.C. 22-3-2-1).

Any judgment rendered against the City of Fort Wayne in any suits for damages for injury to real or personal property, or for any injury sustained by any person growing out of any act or doing of Contractor, or its agents, employees or workmen and that any judgment of any court or award of any Board of Arbitrators or of the State Industrial Board of the State of Indiana rendered against the City of Fort Wayne in any suit or claim arising under said Workmen's Compensation acts of the State of Indiana, now or hereafter in force, relating to compensation for accidental injuries or death suffered by his employees or the employees of any Subcontractor or Subcontractors in the course of their employment, when notice of the pendency of such suit, hearing or arbitration shall have been given said Contractor, shall be conclusive against Contractor as to amount, liability and all other things pertaining thereto; it being the intent of the parties hereto that Contractor indemnify and hold harmless City in the premises.

ARTICLE 6. NONDISCRIMINATION OF LABOR

The Contractor further agrees to be bound by Section 15-13 (as amended), of the Code of the City of Fort Wayne, Indiana of 1974, passed by the Common Council of the City of Fort Wayne, Indiana as General Ordinance No. G-34-78 (as amended) on December 12th, 1978, a copy of which Section is attached and incorporated herein and made a part hereof. (NE/1 - NE/3)

ARTICLE 7. PREVAILING WAGE SCALE

The Contractor agrees to pay and also require of his subcontractors that they pay which ever is the highest of Federal, State, and Local wage rates on the work covered by this contract which shall not be less than the prescribed scale of wages as determined pursuant to the provisions of Chapter 319 of the Acts of the General Assembly of the State of Indiana, of 1935, attached hereto and made a part hereof. (WR/1 through WR/34).

ARTICLE 8. COMPONENT PARTS OF THIS CONTRACT

The following documents are as fully a part of this contract as if hereto attached or herein repeated:

A. Advertisement for Bids, for Contract No. 325-80
B. Instructions to Bidders for Contract No. 325-80
C. Contractor's Proposal Dated October 21, 1980.
D. Fort Wayne Water Pollution Control Engineering Department Construction Drawing No. SY-11050
E. General Specifications and Conditions, detailed specifications, construction standards for the installation of storm and sanitary sewers and addenda thereof of the City of Fort Wayne's Water Pollution Control Engineering Department.

F. Federal Contract Provisions.
G. Workmen's Compensation Act (I.C. 22-3-2-1).
H. Non Discrimination of labor General Ordinance No. G-34-78 (as amended).
I. Prevailing wage scale.
J. Performance Bond.
K. Labor and Material Payment Bond.
L. Comprehensive Liability Insurance Coverage.
M. Application for Cut Permit.
N. Escrow Agreement.
O. Notice of Award.
P. Notice to Proceed.
Q. Change Order.
R. Notice of Final Acceptance.
S. Addendum No. 1, 2 and 3.

ARTICLE 9. GUARANTEE OF WORKMANSHIP

The Contractor shall warrant all materials, labor and equipment furnished and work performed for a period of one (1) year from date of final acceptance in writing by the Owner.

ARTICLE 10. INDEMNITY

Contractor shall furnish to owner, within ten (10) days of the date hereof a certificate from an insuror acceptable to owner showing personal injury and property damage coverages in an amount and of a type acceptable to owner. Insurance in force issued in connection with the work to be done under this Contract in accordance with said Specifications of the City of Fort Wayne, Division I, Section 7.2.4.

ARTICLE 11. ADJUSTMENTS OF DISPUTES

All questions or controversies which may arise between the Contractor and the Owner under the provisions of this Contract and the work to be performed and materials to be furnished shall be subject to the decision of the Chief Engineer of the Fort Wayne Water Pollution Control Department, and his decision shall be final and conclusive upon the parties.

Provided, however, no changes in the plans, specifications, or other phases of the work covered by this Contract will be permitted except on prior written authorization by the Board of Public Works.

ARTICLE 12. COMPLETION DATE

The Contractor agrees to complete the work specified within contract in 720 consecutive calendar days after having been ordered by the Owner to commence work under this contract.

ARTICLE 13. COUNCILMANIC APPROVAL

This Agreement, although executed on behalf of the Owner by the Mayor and Board of Public Works of the City of Fort Wayne, Indiana, shall not be binding upon the Owner unless and until the same shall have been ratified and approved by the Environmental Protection Agency and Common Council of the City of Fort Wayne,

Indiana, and should said Environmental Protection Agency or Common Council fail to approve the same within ninety (90) days after the date hereof, then this Contract shall become wholly void.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

BUTLER & BUTLER CONST. INC.

BY: M. Auber Butler
, President M. Auber Butler

BY: Kern Butler
, Secretary Kern Butler

CITY OF FORT WAYNE, INDIANA

BY: _____
Win Moses, Jr., Mayor

ATTEST:

Sandra E. Kennedy
Sandra E. Kennedy, Clerk

APPROVED AS TO FORM AND LEGALITY:

_____

BOARD OF PUBLIC WORKS

_____
Mark L. Akers, Chairman

_____
Roberta Anderson Staten, Member

_____
Herbert R. Gamache, Member

Approved by the Common Council of the City of Fort Wayne on _____ day of _____, 19__.

Bond No.

RELIANCE INSURANCE COMPANY

HEAD OFFICE, PHILADELPHIA, PENNSYLVANIA

PERFORMANCE BOND

The American Institute of Architects, AIA Document A311, February 1970 Edition.

KNOW ALL MEN BY THESE PRESENTS: that (Here insert full name and address or legal title of Contractor)

Butler & Butler Construction, Inc.

as Principal, hereinafter called Contractor, and, **RELIANCE INSURANCE COMPANY**, a corporation of the State of Pennsylvania, with its Head Office at Philadelphia, Pennsylvania, as Surety, hereinafter called Surety, are held and firmly bound unto (Here insert full name and address or legal title of Owner)

City of Fort Wayne, Board of Public Works, One Main Street
Fort Wayne, Indiana

as Obligee, hereinafter called Owner, in the amount of One Hundred Ninety-six Thousand, One Hundred,

Sixty and 00/100----------Dollars ($ 196,160.00------), for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Contractor has by written agreement dated December 16 19 80, entered into a contract with Owner for

Resolution #325, 1980, Elkridge Sanitary Sewer.

in accordance with Drawings and Specifications prepared by (Here insert full name and address or legal title of Architect)

which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Contractor shall promptly and faithfully perform said Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The Surety hereby waives notice of any alteration or extension of time made by the Owner.

Whenever Contractor shall be, and declared by Owner to be in default under the Contract, the Owner having performed Owner's obligations thereunder, the Surety may promptly remedy the default, or shall promptly

1) Complete the Contract in accordance with its terms and conditions, or

2) Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, or, if the Owner elects, upon determination by the Owner and the Surety jointly of the lowest responsible bidder, arrange for a contract between such bidder and Owner, and make available as Work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the contract price," as used in this paragraph, shall mean the total amount payable by Owner to Contractor under the Contract and any amendments thereto, less the amount properly paid by Owner to Contractor.

Any suit under this bond must be instituted before the expiration of two (2) years from the date on which final payment under the contract falls due.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the Owner named herein or the heirs, executors, administrators or successors of Owner.

Signed and sealed this 16th day of December 19 80

Eunice A. Powers
(Witness)

YASTE, ZENT & RYE, INC.
Authorized Agents

(Witness)

BUTLER & BUTLER CONSTRUCTION, INC. (Seal)

Kerm Butler
(Principal)
(Title)

RELIANCE INSURANCE COMPANY

Vicki R. Anderson
(Title)
Attorney-in-fact

Performance Bond
Revised to February, 1970

SB 5715ax (1) Printed in U.S.A.
BDR-2304 ED. 7-71

RELIANCE INSURANCE COMPANY

HEAD OFFICE, PHILADELPHIA, PENNSYLVANIA

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, That the RELIANCE INSURANCE COMPANY, a corporation duly organized under the laws of the State of Pennsylvania, does hereby make, constitute and appoint Arthur C. Frericks, Donald T. Belbutowski, Gerald A. Dahle, Leonard Shirley, Lane I. Ross and Vicki L. Anderson, Individually, of Fort Wayen, Indiana

its true and lawful Attorney-in-Fact, to make, execute, seal and deliver for and on its behalf, and as its act and deed any and all bonds and undertakings of Suretyship,

and to bind the RELIANCE INSURANCE COMPANY thereby as fully and to the same extent as if such bonds and undertakings and other writings obligatory in the nature thereof were signed by an Executive Officer of the RELIANCE INSURANCE COMPANY and sealed and attested by one other of such officers, and hereby ratifies and confirms all that its said Attorney(s)-in-Fact may do in pursuance hereof.

This Power of Attorney is granted under and by authority of Article VII of the By-Laws of RELIANCE INSURANCE COMPANY which became effective September 7, 1978, which provisions are now in full force and effect, reading as follows:

ARTICLE VII – EXECUTION OF BONDS AND UNDERTAKINGS

1. The Board of Directors, the President, the Chairman of the Board, any Senior Vice President, any Vice President or Assistant Vice President or other officer designated by the Board of Directors shall have power and authority to (a) appoint Attorneys-in-Fact and to authorize them to execute on behalf of the Company, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof, and (b) to remove any such Attorney-in-Fact at any time and revoke the power and authority given to him.

2. Attorneys-in-Fact shall have power and authority, subject to the terms and limitations of the power of attorney issued to them, to execute and deliver on behalf of the Company, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof. The corporate seal is not necessary for the validity of any bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof.

3. Attorneys-in-Fact shall have power and authority to execute affidavits required to be attached to bonds, recognizances, contracts of indemnity or other conditional or obligatory undertakings and they shall also have power and authority to certify the financial statement of the Company and to copies of the By-Laws of the Company or any article or section thereof.

This power of attorney is signed and sealed by facsimile under and by authority of the following Resolution adopted by the Board of Directors of RELIANCE INSURANCE COMPANY at a meeting held on the 5th day of June, 1979, at which a quorum was present, and said Resolution has not been amended or repealed:

> "Resolved, that the signatures of such directors and officers and the seal of the Company may be affixed to any such power of attorney or any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached."

IN WITNESS WHEREOF, the RELIANCE INSURANCE COMPANY has caused these presents to be signed by its Vice President, and its corporate seal to be hereto affixed, this 5th day of August 1980.

RELIANCE INSURANCE COMPANY

R S Bedworth

Vice President

STATE OF Pennsylvania
COUNTY OF Philadelphia } ss.

On this 5th day of August, 1980, personally appeared R. S. Bedworth

to me known to be the Vice-President of the RELIANCE INSURANCE COMPANY, and acknowledged that he executed and attested the foregoing instrument and affixed the seal of said corporation thereto, and that Article VII, Section 1, 2, and 3 of the By-Laws of said Company and the Resolution, set forth therein, are still in full force.

Patricia C. Corkery

My Commission Expires:

May 7, 1984

Notary Public in and for State of Pennsylvania

Residing at Philadelphia

I, P. D. Crossetta, Assistant Secretary of the RELIANCE INSURANCE COMPANY, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney executed by said RELIANCE INSURANCE COMPANY, which is still in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Company this 16th day of December 19 80

Assistant Secretary

BDR-1431 Ed. 6/79

Admn. Appr. _____

DIGEST SHEET

L-80-12-38

TITLE OF ORDINANCE Spy Run Area Sanitary Improvement Sewage Works Grant No. C-180599-07; Sewer Resolution No. 325-80

DEPARTMENT REQUESTING ORDINANCE Board of Public Works

SYNOPSIS OF ORDINANCE A contract with Butler & Butler Construction, Inc. to construct 8 & 12 inch sanitary sewers throughout Golfview Addition area all in accordance with plans and specifications of the W.P.C. Utility.

EFFECT OF PASSAGE Improvement to the water quality in the Spy Run area with the construction of sanitary sewers.

EFFECT OF NON-PASSAGE The loss of State and Federal Funds to improve Fort Wayne environs.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) This project will cost $196,160.00 which will be paid by USEPA (75%), State (10%) and City Utilities (15%).

ASSIGNED TO COMMITTEE (PRESIDENT) City Utilities